UNITED
NATIONS

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General Assembly
Security Council

Distr.
GENERAL

A/51/226
S/1996/595
24 July 1996

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-first session
Item 21 (b) of the provisional agenda*
STRENGTHENING OF THE COORDINATION OF HUMANITARIAN AND DISASTER RELIEF ASSISTANCE OF THE UNITED NATIONS, INCLUDING SPECIAL ECONOMIC ASSISTANCE: SPECIAL ECONOMIC ASSISTANCE TO INDIVIDUAL COUNTRIES OR REGIONS

SECURITY COUNCIL
Fifty-first year

Letter dated 23 July 1996 from the Chargé d'affaires a.i. of the Permanent Mission of Ukraine to the United Nations addressed to the Secretary-General

On instructions from my Government and with reference to General Assembly resolution 50/58 E of 12 December 1995, I have the honour to transmit herewith the text of an aide-mémoire on the position of Ukraine on the problems of implementation of economic sanctions imposed by the Security Council (see annex).

I would be grateful if you have the present letter and its annex circulated as an official document of the General Assembly, under item 21 (b) of the provisional agenda, and of the Security Council.

(Signed) Yury BOHAYEVSKY
Chargé d'affaires a.i.
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ANNEX

Aide-mémoire on the position of Ukraine on the problems of implementation of economic sanctions imposed by the Security Council

Over the last few years, the large-scale enforcement of mandatory economic measures as one of the instruments to influence the behaviour of a party that violates international peace and security has given a new dimension to the problem of the implementation of sanctions. The sanctions imposed by the Security Council against the Federal Republic of Yugoslavia (Serbia and Montenegro) (FRY) may serve as a vivid example.

Considering the Security Council sanctions an inalienable and integral part of the international efforts to achieve a peaceful settlement of the conflict in the former Yugoslavia, Ukraine has complied with all United Nations resolutions concerning the obligatory trade and economic embargo against the FRY and has taken appropriate measures on a national level to ensure their observance.

In addition, in order to ensure the enforcement of the sanctions regime, in October 1993 the Government of Ukraine and the Sanctions Assistance Mission Communication Centre signed a memorandum of understanding on the Sanctions Assistance Mission. According to that memorandum, the Sanctions Assistance Mission, which was located in Ismail together with the national control bodies, has been ensuring that shipping on the Danube is in accordance with the above-mentioned Security Council resolutions.

Moreover, to ensure strict compliance with the relevant Security Council resolutions by national enterprises and all legal entities, an adequate information campaign was conducted. All Ministries and state committees were duly notified on the nature of the resolutions imposing sanctions against the FRY. The experience of Ukraine proved that an effective information campaign, especially at an early stage, would make a valuable contribution to the success of sanctions implementation at both the national and international levels.

Unfortunately, Ukraine was unable to solve one of the main problems that emerged as the result of the implementation of sanctions, which took on an entire new resonance and acquired a new dimension. This is the problem of the negative consequences of sanctions on our socio-economic life.

Ukraine has paid a high price for strict and consistent implementation of sanctions, further aggravating the economic situation of a country that, at the same time, carries the heavy burden of mitigating the tragic consequences of the Chernobyl catastrophe. The impact was tangible on the mining, metallurgical, machine-building and electrotechnical industries, which traditionally had close economic relations with this region. Besides this, the biggest shipping company of Ukraine, UDASCO, has also suffered great losses. UDASCO has more than 1,000 vessels and about 25,000 workers, who depend completely on transshipments via the Danube.

In general, according to its specialists, during the period of implementation of the relevant Security Council resolutions, Ukraine has suffered around US$ 4.5 billion in direct losses.

For this reason, for the effective implementation of Security Council sanctions, we must pay particular attention to defining ways and means of minimization of and compensation for the losses of the neighbouring countries and major economic partners of the target country. If this is not done, the inability of the world community to provide a swift and effective answer to the problems arising from the application of sanctions threatens to undermine trust in the very institution of sanctions. It has already called into question the very principle of collective activity in the implementation of enforcement measures by the United Nations.

The Security Council imposes sanctions on behalf of the whole international community. Therefore, all the Members of the United Nations should bear responsibility for their implementation and their consequences. Neighbours or major economic partners should not be overburdened by actions undertaken in the name of the entire Organization.

In this regard, it is necessary that preliminary consultations between the Security Council and countries likely to be affected by the implementation of sanctions take place before sanctions are imposed in order to minimize possible damage that they could cause. These preliminary consultations should address such issues as the content of sanctions, the timing of their imposition and a system to monitor their effects. Moreover, the relevant Security Council resolutions that impose the enforcement measures should also provide for the necessary arrangements to avoid negative effects on countries that observe the sanctions (third countries).

Periodic reviews should therefore continue to assess the effects of sanctions on such countries and - within the framework of the particular sanctions regime - consider solutions to problems that have been identified. Ukraine is of the view that the Security Council should monitor impacts on countries in the case of specific regimes through periodic consultations with concerned States.

The recent experience of Ukraine also has revealed that there is a need for a comprehensive and unified methodology for determining and evaluating the economic situation of non-target States so as to assess their losses with a view to reducing the negative impact of sanctions on their economies.

Ukraine cannot but mention another characteristic that is peculiar to sanctions - their long-lasting effect. In this connection it is also necessary that the organizations of the United Nations system, the international financial institutions, in particular the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD), regional organizations and Member States continue to pay special attention to the economic problems of the affected States and their adverse social impact. For this purpose, consideration should be given to ways and means of improving procedures for consultations in order to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as special

meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations.

Ukraine believes that specific relief measures should be envisaged for specific situations. As Ukrainian experience shows, the following measures aimed at settling the above-mentioned problems should be considered:

(a) Opening of special lines of credit by international financial institutions to render direct financial assistance to third countries to support technical projects carried out in those countries;

(b) Introduction by the donor countries, on a bilateral and multilateral basis, of trade preferences for third countries, including promotion of their exports;

(c) Donor country support, on a bilateral and multilateral basis, of investments in the economies of third countries, special preference being given to the spheres that sustain direct losses from the sanctions.

It is also important that, as partial compensation for losses, a special regime of participation in the post-conflict reconstruction and development should be considered for the third States affected by the implementation of sanctions.

Ukraine cannot but mention another far less discussed issue relating to the effects of sanctions regimes on third countries. Alongside the clear losers when sanctions are imposed, there are also clear winners. The sanctions against FRY and Iraq have given us more than enough evidence of this. In this context the international community might study the possibility of introducing a mechanism to determine procedures for levying special taxes on States that are benefiting from the imposition of sanctions regimes. This could take a form of a special contribution to the regional banks for reconstruction and development. The funds thus created could be used to finance different developmental projects in the third States affected by the imposition of the United Nations sanctions.

Ukraine believes it appropriate to return once again to the question of creating a special compensatory mechanism that would include a compensation fund. What requires further study as one of the possible elements of this mechanism is the question of reducing the contribution for the financing of peace-keeping operations by the total losses, to be calculated according to United Nations methodology.

The time has come to consider the creation under Article 29 of the Charter of the United Nations of a standing Security Council sanctions committee. It could be charged with the responsibility of estimating the losses the States have already suffered, conducting research on the economic and socio-political consequences of sanctions, coordinating measures to minimize those after-effects on the most vulnerable population groups and third countries and also monitoring their strict observance. This body could also consider the problem of how best to "tailor" sanctions, before they are imposed, in ways that would minimize the collateral damage of their implementation for third States.

The experience of the former Yugoslavia has clearly demonstrated the sensitive spots in the procedures and methods of operations of the Sanctions Committee. Sometimes its work has been far from watertight. That is why it is necessary for Security Council resolutions to include precise mandates for sanctions committees. Further improvements in the working methods of sanctions committees that promote transparency and effectiveness, as well as assistance to speed up the Committee's permit issuance activities are necessary.

From the point of view of Ukraine, the procedure of obtaining permits through the relevant committee for the delivery to or transshipment of cargo through the territory of the State affected by the sanctions requires radical changes. Experience in the case of the FRY sanctions has shown that applications from Ukrainian firms have been considered for months, which has caused additional losses because of the delays in fulfilling contracts and additional expenses for storage of goods that were ready to be dispatched. In this connection it is desirable that the committees should adopt a quick "authorized signatory system" so to avoid delays in clearing applications. It is also important to communicate immediately to the applicant the reasons for putting applications on hold or for blocking them. Ukraine believes that participation of third countries affected by the implementation of sanctions in the deliberations of the sanctions committees of the Security Council should be compulsory.

It is also necessary to underline that the above-mentioned proposals are far from exhaustive. They are only part of a broad mechanism that it is important to elaborate under Article 50 of the Charter. From the point of view of Ukraine, at this stage the most significant thing is the political will of the international community to settle all outstanding problems in a constructive and expeditious manner.